

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>DERRICK SUTTON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
vs.	)	<b>Case No. <u>3:12-cv-01241-JPG-PMF</u></b>
	)	
<b>LARSON,</b>	)	
	)	
<b>Defendants.</b>	)	

**REPORT AND RECOMMENDATION**

**FRAZIER, Magistrate Judge:**

Before the court is Defendant Larson's (Doc. 37) motion to dismiss for lack of prosecution, wherein Larson argued that this case should be dismissed because failed to respond to his interrogatories and a court order commanding his response. The undersigned detailed the procedural history concerning this matter in an order dated January 14, 2014 (*see* Doc. 47), which is hereby incorporated. The undersigned concluded at that time that the *pro se* Plaintiff likely was not informed as to the technical requirements of Rule 33 and permitted the Plaintiff a final opportunity for to properly serve Larson with his responses. It appears that Plaintiff complied with the court order and served his responses upon Larson. *See* Doc. 48. Accordingly, there is not sufficient justification to dismiss this case pursuant to Rule 37(b)(2)(A)(v) of the Federal Rules of Civil Procedure at this time.

**SO RECOMMENDED.**

**DATED: March 12, 2014.**

**s/ Philip M. Frazier**  
**PHILIP M. FRAZIER**  
**UNITED STATES MAGISTRATE JUDGE**